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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,485	06/15/2006	Kevin Joseph Martin	1223-017	1781
1009 7590 07/07/2010 KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507				
EXAMINER				
IRVIN, THOMAS W				
ART UNIT		PAPER NUMBER		
3657				
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07/07/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,485

Applicant(s)

MARTIN, KEVIN JOSEPH

Examiner

THOMAS IRVIN

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 June 2010 has been entered.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 6, 7, 10, 11, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Purdy (844,288).

In Re claim 1, Purdy discloses a cable assembly including at least one cable (A) having end portions and a connector device (see fig. 1) for operatively connecting the end portions of the cable so as to form an endless track, the connector device including a power transmission member (R, R') and a coupling (B,B') operatively connecting the end portions of the cable to the power transmission member, the power transmission member being a generally tubular member having end sections, the coupling including a coupling element operatively connected to the power transmission member between the end sections. Examiner notes that the claims are directed to a cable assembly, and therefore the limitations regarding the wheel have not been given weight.

In Re claim 3, each cable has end portions which are operatively connected together by the connector device so as to form an endless cable or track, there being, a

plurality of connecting means arranged in spaced apart relation along the cable length (see fig. 1).

In Re claim 4, the power transmission member is generally circular in cross-section.

In Re claim 6, as understood, the coupling is arranged so that the load applied to the power transmission member by the cable is in the region of the central axis of the power transmission member.

In Re claims 7, the coupling element of the coupling (B,B') includes a clevis (e') secured to the outer circumferential surface of the power transmission member (R) and two tongues (e) on the ends of the opposing cable which is operatively connected to the clevis of the opposing cable through the transmission member. Examiner notes that the clevises are also connected to the beginning of each cable.

In Re claim 10, and 20, the coupling element of the coupling includes a plate (b) mounted to said power transmission member for at least partial rotation relative thereto, said plate including one or more tongue portions (e) and said coupling further including at least one clevis (e') associated with a respective tongue portion said clevis being operatively connected to an end of a cable, the tongue being operatively connected to the clevis through the power transmission member. Examiner notes that the plates are also connected to the beginning of each cable.

In Re claim 11, see pins (P) having retaining rings (r) which limit lateral movement of the plates.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 12, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Purdy (844,288) in view of Casgrain (538,895).

In Re claim 2, Purdy fails to teach the wheel.

Casgrain teaches using a wheel (A) with recesses (A²), grooves (15), and teeth (A') for driving a power transmission band (a). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a wheel with recesses, grooves, and teeth, as taught by Casgrain, with the cable assembly of Purdy, to positively engage the transmission members and drive the cable assembly.

In Re claim 12, as understood, the coupling is arranged so that the load applied to the power transmission member by the cable is in the region of the central axis of the power transmission member.

In Re claim 14, the coupling element of the coupling (B,B') includes a clevis (e') secured to the outer circumferential surface of the power transmission member (R) and two tongues (e) on the ends of the opposing cable which is operatively connected to the clevis of the opposing cable through the transmission member. Examiner notes that the clevises are also connected to the beginning of each cable.

In Re claim 18, the coupling element of the coupling includes a plate (b) mounted to said power transmission member for at least partial rotation relative thereto, said plate including one or more tongue portions (e) and said coupling further including at least one clevis (e') associated with a respective tongue portion said clevis being operatively connected to an end of a cable, the tongue being operatively connected to the clevis through the power transmission member. Examiner notes that the plates are also connected to the beginning of each cable.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Purdy (844,288) as applied to claim 7, and further in view of Campbell (2004/0083607).

In Re claim 8, Purdy discloses attaching the cable to the coupling element using an insert (S), but does not specifically teach swaging.

Campbell teaches securing the end of a cable using swaging. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used swaging, as taught by Campbell, as a well-known alternative means for securing the cable to the coupling member, to provide a cost effective robust means of connection.

In Re claim 9, the transmission member acts as a pin for connection between the tongue and clevis of the two cable ends. Also see pin (P) in fig. 1 of Purdy.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Purdy (844,288) and Casgrain (538,895) as applied to claim 14 above, and further in view of Campbell (2004/0083607).

In Re claim 15, Purdy discloses attaching the cable to the coupling element using an insert (S), but does not specifically teach swaging.

Campbell teaches securing the end of a cable using swaging. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used swaging, as taught by Campbell, as a well-known alternative means for securing the cable to the coupling member, to provide a cost effective robust means of connection.

In Re claim 16, the transmission member acts as a pin for connection between the tongue and clevis of the two cable ends. Also see pin (P) in fig. 1 of Purdy.

Claims 5, 13, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Purdy (844,288) as applied to claim 4 above, and further in view of Karnes (2005/0023113).

In Re claim 5, Purdy, as modified, teaches the claimed invention except failing to teach rotatable bushings on the transmission member.

Karnes teaches including on a drive chain, a bushing member (152) between the connecting member (104) and the transmission member (111, 115) so that the members can rotate freely about the pin (118) axis. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the cable

assembly of Purdy to include a bushing member, as taught by Karnes, between the connecting member and the coupling elements on the beginning and end of the cables so as to allow them to rotate with reduced friction about the connecting member.

In Re claim 13, as understood, the coupling is arranged so that the load applied to the power transmission member by the cable is in the region of the central axis of the power transmission member.

In Re claim 17, the coupling element of the coupling (B,B') includes a clevis (e') secured to the outer circumferential surface of the power transmission member (R) and two tongues (e) on the ends of the opposing cable which is operatively connected to the clevis of the opposing cable through the transmission member. Examiner notes that the clevises are also connected to the beginning of each cable.

In Re claim 19, Purdy further discloses that the coupling element of the coupling includes a plate (b) mounted to said power transmission member for at least partial rotation relative thereto, said plate including one or more tongue portions (e) and said coupling further including at least one clevis (e') associated with a respective tongue portion said clevis being operatively connected to an end of a cable, the tongue being operatively connected to the clevis through the power transmission member. Examiner notes that the plates are also connected to the beginning of each cable.

Response to Arguments

Applicant's arguments filed 15 June 2010 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a rotatable bush) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments that Purdy fail to disclose a clevis and tongue, the examiner points to annotated fig. 1 below, showing a male/female eye-head, understood to meet applicants limitations of a clevis (e^1) secured to the outer surface of the power transmission member (R), and a two tongues (e^2) on the ends of the cable (A^1) which is operatively connected to the clevis, via the power transmission member (R).

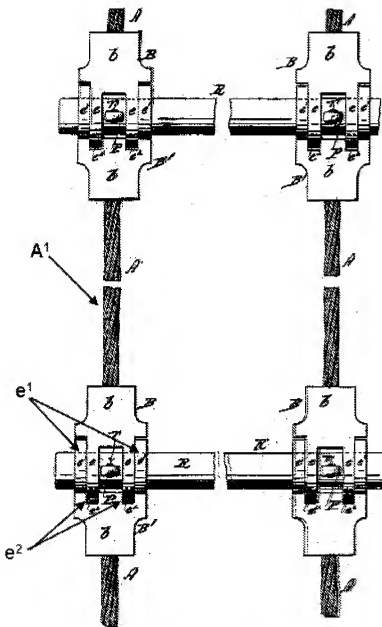


Fig. 1 (US 844,288)

In response to applicant's arguments regarding the retaining rings, the examiner points out that the claims do not specify where the retaining rings are located along the length of the power transmission member, just that they are located "on the outer

surface of the power transmission member". The retaining clips (P) if Purdy, have rings (r) which limit lateral movement of the plate.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, the motivation is found in the references themselves and the knowledge generally available to one of ordinary skill in the art. Purdy discloses that the chain is intended to be an endless traveling chain (col. 1, lines 9-12). As it is an endless chain, it must inherently be wound around some sort of driving and driven pulleys/wheels. Casgrain teaches a sprocket wheel (figs. 1 and 2) for a power-transmitting band; the sprocket wheel having recesses, grooves, and teeth for positively transmitting power to/from a cable-type belt (fig. 3). The examiner continues to assert that it would have been obvious to have used the wheel having recesses, grooves, and teeth, taught by Casgrain, to positively engage the transmission members and drive the cable type belt of Purdy.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS IRVIN whose telephone number is (571)270-3095. The examiner can normally be reached on M-F 10-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas Irvin/
Examiner, Art Unit 3657

/Bradley T King/
Primary Examiner, Art Unit 3657